

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
MONROE DIVISION

JAY THOMAS

* **CIVIL ACTION NO. 19-0493**

vs.

* **JUDGE TERRY A. DOUGHTY**

BRACCO DIAGNOSTICS INC.

* **MAG. JUDGE KAREN L. HAYES**

JUDGMENT

The Report and Recommendation of the Magistrate Judge having been considered, no objections having been filed, and finding that same is supported by the law and the record in this matter,

IT IS ORDERED, ADJUDGED, AND DECREED that Defendant's motion to dismiss [Doc. No. 5] is **GRANTED IN PART** and **DENIED IN PART**. To the extent Defendant seeks dismissal of Plaintiff's negligence, negligent misrepresentation, negligence per se, breach of implied warranty, fraudulent misrepresentation and concealment, civil battery, and defective design claims, the motion is **GRANTED**, and those claims are **DISMISSED WITH PREJUDICE**. In all other respects, including as to Plaintiff's defective design claim, the motion is **DENIED**.¹

Monroe, Louisiana, this 6th day of September, 2019.



TERRY A. DOUGHTY
UNITED STATES DISTRICT JUDGE

¹ In the Report and Recommendation, the Magistrate Judge recommended that, in the absence of an amendment addressing the deficiencies in Plaintiff's defective design claim within the objection period, that claim also be dismissed with prejudice. Plaintiff did file such an amendment; therefore, the motion to dismiss is denied with respect to Plaintiff's defective design claim.